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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 13059/2018 and CM APPL. 50732/2018

ZOUHOOR AHMAD WANI Petitioner

Through: Mr Lalit Valecha and Mr Varun
Mathur, Advocates.

versus

UNION OF INDIA AND ORS. Respondents

Through: Mr Amit Mahajan, CGSC for UOI
with Mr Madhav Chitale, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **12.12.2018**

1. The petitioner has filed the present petition, *inter alia*, praying as under:-

“a. That this Hon’ble Court be pleased to issue a writ of mandamus or any other writ or order or direction to the Respondent No.1&2 to immediately issue directions to Respondent No. 3 & 4 to issue fresh passport to the Petitioner, which is delayed in gross violation of the principles of natural justice and in violation of the fundamental rights of the Petitioner.”

2. The petitioner claims to be an Indian Citizen who is permanently residing in the United States of America. He claims to be an Attorney of Law, practicing in the State of New York and the Federal Courts of the United States of America. The petitioner claims that he was born in a village called Sogam in the District Kupwara, Jammu and Kashmir. He claims that his parents and siblings continue to reside in the said village.

3. The petitioner had sought refuge/asylum in the United States of America and has been living there for the past 25 years. The petitioner claims that his entire family except him have acquired the citizenship of United States of America and are holding US Passports. The petitioner has filed the present petition as he seeks to visit his father who is stated to be ailing. The petitioner claims that he is unable to do so since he does not have the necessary travel documents to travel to India. It is in this context that the petitioner has prayed that respondents be directed to ensure that a fresh passport is issued to the petitioner.

4. Mr Mahajan, learned counsel appearing for the respondents states that a counter affidavit has been filed, however, the same is not on record. He submits that the petitioner has not been issued an Indian passport for the reason that he holds travel documents issued by United States of America. He also states that short-term passports were issued to the petitioner on four occasions, while as per the rules, the same could be issued only once. He further states that there is a serious dispute whether the petitioner remains a citizen of India after he has been granted asylum by another country.

5. In view of the above, the principal controversy is whether the petitioner continues to be a citizen of India even though he had sought and was granted asylum overseas. The petitioner on his part is willing to give an undertaking that he is a citizen of India and has not accepted the citizenship of any other country as yet.

6. In view of the above and considering that the petitioner seeks to visit India to meet his ailing father, this Court is of the view that travel documents

ought to be provided to the petitioner to visit India on a one time basis pending resolution of the controversy. This Court, accordingly, directs the respondents to issue emergency travel documents to the petitioner in order to enable him to travel to India to meet his father and return back to the United States of America pending the decision as to his status as an Indian Citizen. The said travel document would entitle the petitioner to remain in India for a maximum period of three months from the date of his arrival in India.

7. In so far as the controversy whether, the petitioner is a citizen of India is concerned, this Court does not consider it apposite to decide the question in the first instance. The petitioner is at liberty to make an application to the Ministry of Home Affairs, to clarify his status as to the citizenship of this Country. It is directed that if such an application is made within a period of two weeks from today, the same would be examined and the decision would be taken by the concerned authority within a period of four weeks thereafter. Needless to state that if the petitioner is aggrieved by the said decision, the petitioner would be at liberty to avail of such remedies as available in law.

8. The petition is disposed of in the above terms. The application is also disposed of.

VIBHU BAKHRU, J

DECEMBER 12, 2018
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